

Gavin S. Gilmour/EAC/GOV  
04/17/2007 05:27 PM

To Donetta L. Davidson/EAC/GOV@EAC, Gracia  
Hillman/EAC/GOV@EAC, Caroline C.  
Hunter/EAC/GOV@EAC, Rosemary E.  
cc Sheila A. Banks/EAC/GOV@EAC, Juliet E.  
Hodgkins/EAC/GOV@EAC, Elieen L.  
Kuala/EAC/GOV@EAC, Jeannie Layson/EAC/GOV, Karen  
bcc

Subject FYI--Letter from Serrano

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A copy of Serrano's letter is attached.

GG



Serrano Letter.pdf

Gavin S. Gilmour  
Deputy General Counsel  
United States Election Assistance Commission  
1225 New York Ave., NW, Ste 1100  
Washington, DC 20005  
(202) 566-3100

THIS MESSAGE IS FOR ITS INTENDED RECIPIENT ONLY. IT IS A PRIVILEGED DOCUMENT AND SHALL NOT BE RELEASED TO A THIRD PARTY WITHOUT THE CONSENT OF THE SENDER.

027103

DAVID R. OBEY, WISCONSIN, CHAIRMAN  
JOHN P. MURTHA, PENNSYLVANIA  
NORMAN D. DICKS, WASHINGTON  
ALAN B. MOLLICHAM, WEST VIRGINIA  
MARCY KAPLUR, OHIO  
PETER J. VISCLOSKEY, INDIANA  
NITA M. LOWEY, NEW YORK  
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ROSA L. DELAURIO, CONNECTICUT  
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JOHN W. OLVER, MASSACHUSETTS  
ED PASTOR, ARIZONA  
DAVID E. PRICE, NORTH CAROLINA  
CHET EDWARDS, TEXAS  
ROBERT E. "BOB" CRAMER, JR., ALABAMA  
PATRICK J. KENNEDY, RHODE ISLAND  
MAURICE D. HINCHAY, NEW YORK  
LUCILLE ROYBAL-ALLARD, CALIFORNIA  
SAM FARR, CALIFORNIA  
JESSE L. JACKSON, JR., ILLINOIS  
CAROLYN C. KILPATRICK, MICHIGAN  
ALLEN BOYD, FLORIDA  
CHAKA FATTAH, PENNSYLVANIA  
STEVEN H. ROTHMAN, NEW JERSEY  
SANFORD D. BISHOP, JR., GEORGIA  
MARION BERRY, ARKANSAS  
BARBARA LEE, CALIFORNIA  
TOM UDALL, NEW MEXICO  
ADAM SCHIFF, CALIFORNIA  
MICHAEL HONDA, CALIFORNIA  
BETTY MCCOLLUM, MINNESOTA  
STEVE KINKEAD, NEW YORK  
TIM RYAN, OHIO  
C.A. "DUTCH" RUPPERBERGER, MARYLAND  
BEN CHANDLER, KENTUCKY  
DEBBIE WASSERMAN SCHULTZ, FLORIDA  
CINO RODRIGUEZ, TEXAS

# Congress of the United States

## House of Representatives

### Committee on Appropriations

Washington, DC 20515-6015

April 17, 2007

JERRY LEWIS, CALIFORNIA  
C.W. BILL YOUNG, FLORIDA  
RALPH REGULA, OHIO  
HAROLD ROGERS, KENTUCKY  
FRANK R. WOLF, VIRGINIA  
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TODD TIAHRT, KANSAS  
ZACH WAMP, TENNESSEE  
TOM LATHAM, IOWA  
ROBERT B. ADERHOLT, ALABAMA  
JO ANN EMERSON, MISSOURI  
KAY GRANGER, TEXAS  
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MARK STEVEN KIRK, ILLINOIS  
ANDER CRUMENHAW, FLORIDA  
DENNIS R. REMBERG, MONTANA  
JOHN R. CANTER, TEXAS  
RODNEY ALEXANDER, LOUISIANA

CLERK AND STAFF DIRECTOR  
ROB NABORS  
TELEPHONE:  
(202) 225-2771

The Honorable Donetta Davidson  
Chair  
United States Election Assistance Commission  
1225 New York Avenue Northwest, Suite 1100  
Washington, DC 20005

Dear Chairwoman Davidson:

I am writing to urge the Election Assistance Commission to publicly release the full draft version of its commissioned report on provisional voting. Given the concern by members of this subcommittee, as well as other members of Congress, over the issue of transparency at the EAC, I believe that it is in the best interest of the taxpayers that they be able to see the full draft report on this topic.

As you know, the EAC commissioned a report from the Eagleton Institute of Politics at Rutgers on both voter identification and provisional voting. At some point, these two reports were split from one another. On March 30, 2007, the EAC released the draft report on voter identification, entitled "Best Practices to Improve Voter Identification Requirements."

I was pleased with the positive precedent set by the EAC with the release of the draft report on voter identification. Although I was disappointed that the Commission did not endorse the results of the study, I strongly believe that releasing the full draft helped dispel concerns of transparency and partisanship, and allowed the public at large to help identify areas that need more in depth review. I also believe that you have made the right decision in asking the Inspector General to conduct a review of the Commission's contracting procedures with respect to recent reports. I am hopeful that the review will conclude that greater openness and transparency is of utmost importance.

Given your request to the Inspector General and the recent controversies over the release of the draft voter identification report, as well as the draft voter fraud and intimidation report, it would

027104

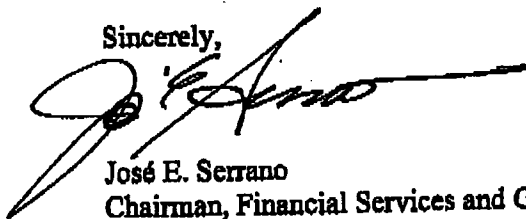
Page 2  
April 17, 2007

be in the best interest of the Commission to release the draft report on provisional voting. Releasing the full draft version of this report would help to ensure that the EAC remains a transparent organization and dispel concerns that the Commission has been acting in a partisan manner.

Should the Commission decide not to release the draft report, I would then request an update as to the status of this report, a timeline for its release, as well as any compelling reasons as to why the EAC should deviate from the precedent you have now set. The public deserves the opportunity to decide whether the report is both rigorous and accurate.

As I mentioned in the hearing we held just over a month ago, I strongly believe that the EAC will be one of the most important government entities in the run up to the 2008 elections. It is of vital importance that we ensure that the EAC remains, in appearance and in fact, a bipartisan, independent agency- so that voters and election administrators across the country can trust its efforts to ensure that federal elections are safe, secure, accurate, and fair. Releasing the provisional voting report would go a long way towards that goal, and I look forward to your response.


Sincerely,



José E. Serrano  
Chairman, Financial Services and General  
Government Appropriations Subcommittee

027105

Rosemary E.  
Rodriguez/EAC/GOV  
04/17/2007 05:31 PM

To Gavin S. Gilmour/EAC/GOV@EAC, Donetta L.  
Davidson/EAC/GOV@EAC, Gracia  
Hillman/EAC/GOV@EAC, Caroline C.  
cc Sheila A. Banks/EAC/GOV@EAC, Juliet E.  
Hodgkins/EAC/GOV@EAC, Elieen L.  
Kuala/EAC/GOV@EAC, Jeannie Layson/EAC/GOV@EAC,  
bcc  
Subject Re: FYI--Letter from Serrano 

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Thanks.

RER

Gavin S. Gilmour

----- Original Message -----

**From:** Gavin S. Gilmour  
**Sent:** 04/17/2007 05:27 PM EDT  
**To:** Donetta Davidson; Gracia Hillman; Caroline Hunter; Rosemary Rodriguez;  
Thomas Wilkey  
**Cc:** Sheila Banks; Juliet Hodgkins; Elieen Kuala; Jeannie Layson; Karen  
Lynn-Dyson; fms.eacfabre@yahoo.com  
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A copy of Serrano's letter is attached.

GG

[attachment "Serrano Letter.pdf" deleted by Rosemary E. Rodriguez/EAC/GOV]

Gavin S. Gilmour  
Deputy General Counsel

027106

United States Election Assistance Commission  
1225 New York Ave., NW, Ste 1100  
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027107

Caroline C. Hunter/EAC/GOV  
04/17/2007 06:44 PM

To Gavin S. Gilmour/EAC/GOV@EAC, Donetta L.  
Davidson/EAC/GOV@EAC, Gracia  
Hillman/EAC/GOV@EAC, Rosemary E.  
cc Sheila A. Banks/EAC/GOV@EAC, Juliet E.  
Hodgkins/EAC/GOV@EAC, Elieen L.  
Kuala/EAC/GOV@EAC, Jeannie Layson/EAC/GOV@EAC,  
bcc

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If we release every single thing that comes in the door every contractor will have a platform to shop their "research" as they see fit at taxpayers expense. Further, I see no need for a Commission, there would only be a need for a research director to dole out government contracts. I am amazed that a "respected" academic institution would behave in this manner.

Gavin S. Gilmour

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**Cc:** Sheila Banks; Juliet Hodgkins; Elieen Kuala; Jeannie Layson; Karen  
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027108

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027109

Jeannie Layson/EAC/GOV  
04/17/2007 05:45 PM

To Rosemary E. Rodriguez/EAC/GOV@EAC  
cc Caroline C. Hunter/EAC/GOV@EAC, Donetta L.  
Davidson/EAC/GOV@EAC, Elieen L.  
Kuala/EAC/GOV@EAC, "Staci Fabre"  
bcc

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History: This message has been replied to.

Commissioner,  
The communications audit identified many of the outstanding issues. I have pasted the vulnerabilities section into the attached document.



Comm. audit vulnerabilities.doc

Jeannie Layson  
U.S. Election Assistance Commission  
1225 New York Ave., NW  
Suite 1100  
Washington, DC 20005  
Phone: 202-566-3100  
www.eac.gov  
Rosemary E. Rodriguez/EAC/GOV

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04/17/2007 05:31 PM

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Wilkey/EAC/GOV@EAC  
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To: Donetta Davidson; Gracia Hillman; Caroline Hunter; Rosemary Rodriguez;

027110

Thomas Wilkey

Cc: Sheila Banks; Juliet Hodgkins; Elieen Kuala; Jeannie Layson; Karen Lynn-Dyson; [REDACTED]

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027111

Jeannie Layson/EAC/GOV  
04/17/2007 06:33 PM

To Donetta L. Davidson/EAC/GOV@EAC  
cc  
bcc  
Subject Re: FYI--Letter from Serrano

Transcription.

-----  
Sent from my BlackBerry Wireless Handheld  
Donetta L. Davidson  
----- Original Message -----

**From:** Donetta L. Davidson  
**Sent:** 04/17/2007 06:22 PM EDT  
**To:** Jeannie Layson  
**Subject:** Re: FYI--Letter from Serrano

Jennie do we put the transcription of public meetings on the EAC web or just the minutes

-----  
Sent from my BlackBerry Wireless Handheld  
Jeannie Layson  
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**Cc:** Caroline Hunter; Donetta Davidson; Elieen Kuala; "Staci Fabre"  
[REDACTED]; Gavin Gilmour; Gracia Hillman; Juliet Hodgkins;  
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Kuala/EAC/GOV@EAC, Jeannie Layson/EAC/GOV@EAC,

027112

Karen Lynn-Dyson/EAC/GOV@EAC, "Staci Fabre"

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027113

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027114

**Vulnerabilities**

➤ **Provisional Voting & Voter ID**

- There is media interest in this report but internal EAC officials express concern over the potential for a perceived lack of data or “meat” in the report, which is likely to invite criticism.
- Important Dates:
  - Final reports in EAC staff review
  - Commissioner statement that this report would be out on March 8, 2007

➤ **Cost of Studies**

- EAC needs to be prepared to answer questions about the cost of two studies.
  - Voter Fraud and Intimidation - \$100,000
    - Report is completed, next steps under review at EAC
  - Effective Design for Election Administration - \$681,400
    - Final report due from contractor March 30, 2007

➤ **HAVA Funds State Reports**

- In its first review of the state reports EAC discovered widespread mistakes. Corrections requests were mailed in December and EAC is currently reviewing resubmitted reports.
- Deadline for reports covering last year:
  - Title I – End of February 2007
  - Title II – End of March 2007
- State funds reports have not been made readily available, they have only been given out through FOIA requests.
  - Moving forward EAC should consider making the reports available on the EAC website.

➤ **Report to Congress on State Spending**

- Report will cover what the states have spent, and what they have done with the money, over the past three years.
- Important Date:
  - Due to Congress end of April 2007

➤ **State Audits**

- States are audited under three types of audits – the Single Audit, the Regular Audit and the Special Audit.
- Currently the Inspector Generals Office puts all audits on the EAC website, and EAC is working to make audit resolution documents function as stand alone documents.
  - Doing so is important and could be especially helpful for media and stakeholder outreach providing a clear and concise “here’s the problem, these issues were identified, these resolutions were issued.”

➤ **Title I. Section 102 Payments**

- States had to send certification documents to EAC to prove spending, and upon review of certifications some states were required to pay money back. EAC needs to be prepared for two possible challenges:
  - Certifications
    - Certifications are scheduled to be issued by the end of May, and states can appeal EAC decisions.
    - To meet its goal of processing appeals by end of the summer, EAC must stick to submission deadlines and its own internal deadlines.
    - Decisions will be posted online after they are sent to the states and EAC needs to be prepared to conduct state official outreach.
  - There are currently three states that EAC must prepare for in terms of possible negative media coverage.
    - Arizona - EAC may face more dialogue with AZ due to its disagreement over a proof of citizenship requirement when registering to vote. Arizona does not realize yet that they will have to repay Title I funds – approximately \$250,000 due to GSA miscalculating their precinct numbers. EAC was not aware until they filed their certification documents. This situation will require significant commissioner outreach.
    - New York - Did not meet deadline for spending and will have to repay all of their funds – approximately \$50 million. The state has not been cooperative in the past; DOJ has sued them over HAVA compliance. EAC foresees problem getting the funding back which may lead to media/stakeholder scrutiny.
    - \$53 million coming back to EAC - EAC believes that Congress did not anticipate such a large amount; 1/3 of states that received the funds have amounts to pay back. May face media/stakeholder scrutiny over program functionality.
- **Title I. Section 102 Funds Redistribution to Title II**
- EAC will tell states, based on a formula, how much funding they will be receiving from the redistribution of Section 102 funds, and states will have to revise their state plans to account for the new funding.
  - Once EAC has total funds from states needing to repay, it will take approximately 4 months to redistribute those funds under Title II.
  - As the process could prove lengthy and complicated, EAC needs to be prepared for media and stakeholder outreach.
- **National Voter Registration Act**
- EAC is required to issue regulations about registration form design but has not as of this time. Issuing regulations on registration forms is a lengthy process, so EAC needs to start immediately to address the issue before the beginning of the Presidential primaries.
  - NVRA says that EAC has to develop a form and submit to Congress every two years a report assessing the impact of the Act. EAC did a report in '05 and will be issuing another report this year but has not addressed form changes.

- Form redesign has the potential to have a huge impact on the process. FEC held regional hearings when a new form was developed, and EAC would most likely need to do the same.
  - Delay could produce several negative outcomes if not addressed quickly:
    - Media coverage – Why has this taken so long? Why now?
    - Changes right before the primaries could produce controversy
- **Labs and Systems Certification**
- To leverage labs certification EAC should institute a notification and preparation policy with Burson-Marsteller for the 30-day accreditation window once EAC receives info from NIST.
  - EAC has the opportunity through CYSTECH labs in Denver to conduct proactive media outreach.
    - The test lab has agreed to open itself to media - a good opportunity to create some “sunshine” on the testing process.
  - EAC needs to prevent late system accreditation problems and possible blame in the public eye and with stakeholder groups. To do so, the following issues need to be addressed/actions need to be taken:
    - System accreditation takes approximately 6-8 months. EAC must set a hard deadline of June 2007 to avoid last minute system certification issues.
    - Engage the media
      - Work with the vendor community to conduct media outreach to counter the negative news cycle and leverage those vendors that have positive stories to tell and are open to press outreach.
      - Show what and how EAC is doing its testing. Use program examples such as FCC cell phone emissions testing and FAA airplanes testing.
      - Engage the blogger community
    - Engage the Secretaries of State
      - EAC needs to be particularly cognizant of the California Secretary of State who appears to be anti-voting system change; may want to focus on California-specific outreach program.
      - EAC should leverage possible positive stories/third party-spokespeople through the states of: Washington – Sam Reid; Texas – Ann McGeehan, Director of Elections; Maryland – Linda Lamone, Elections Office.
    - Leverage Cost-to-Test public education meeting with elections officials, NIST, manufacturers, legislators and advocacy groups.
      - Meeting TBD late April/early May
    - Leverage semi-annual vendor community/test lab meetings to focus outreach to Secretaries of State, election directors associations and election centers.
      - TBD Summer

➤ **Testing and Certification – National Association of State Elections Directors**

- Prior to EAC, the National Association of State Elections Directors handled the testing of voting machines. EAC has some of the testing results but does not currently have a thorough inventory of what documents they have, where the documents are located and what exactly the testing results say.
- These testing results, and a lack of information internally, is a serious vulnerability and it is imperative that an accurate inventory and a thorough analysis of the reports be completed as soon as possible.

➤ **Systems and Labs Transparency Issues**

- EAC not releasing source codes can be problematic for the agency.
  - EAC should develop a clear and concise public statement on source codes to be used for media questions and stakeholder questions.
- Lab accreditation conflict of interest questions have been raised. EAC needs to address this question with outreach to media and stakeholders, specifically on legislation introduced in the House.
  - HR 811 – U.S. Rep. Rush Holt
  - Possible Senate companion bill to be introduced by Feinstein or Nelson

Jeannie Layson/EAC/GOV  
04/19/2007 10:11 AM

To Donetta L. Davidson/EAC/GOV, ghilman@eac.gov, Caroline  
C. Hunter/EAC/GOV@EAC, Rosemary E.  
Rodriguez/EAC/GOV@EAC  
cc Juliet E. Hodgkins/EAC/GOV@EAC, Margaret  
Sims/EAC/GOV@EAC, Thomas R. Wilkey/EAC/GOV@EAC  
bcc

Subject Rep. Serrano

He is quoted in this article as saying the situation surrounding our fraud report could be another Watergate, and wonders if we got our marching orders from the WH. I think we should respond directly to Rep. Serrano regarding his allegation. Say what you will about the way this has been handled, but one thing I'm sure of is that the WH did not edit or was in any way involved in this project. I suggest someone picking up the phone and calling him or his CoS. This is a serious allegation that is starting to really catch on, but now we have a member of Congress saying it.

## The Fraudulence of Voter Fraud

The Bush administration purged U.S. attorneys for failing to prosecute crimes that didn't occur

By Joel Bleifuss

April 18, 2007

On April 6, 2006, in Washington, D.C., Karl Rove gave a speech to the Republican National Lawyers Association and issued this dire warning:

We are, in some parts of the country, I'm afraid to say, beginning to look like we have elections like those run in countries where the guys in charge are, you know, colonels in mirrored sunglasses. I mean, it's a real problem, and I appreciate all that you're doing in those hot spots around the country to ensure that the ballot--the integrity of the ballot--is protected, because it's important to our democracy.

When Rove talks about protecting "ballot integrity," that is shorthand for disenfranchising Democratic Party voters. Over the last several years, the Justice Department, with the help of White House operatives, has sought to boost GOP electoral fortunes by orchestrating a national campaign against voter fraud. But the administration overreached on Dec. 7, when President George W. Bush fired eight U.S. attorneys, a political scandal that some say could become this president's Watergate.

When Republicans talk about *voter* fraud they are referring to illegal voting by individuals, as opposed to *vote* fraud--systematic attempts to steal an election by an organized group of partisans. This emphasis on voter fraud has convinced eight states to pass laws requiring voters to present official photo identification in order to cast a ballot--laws that studies have shown suppress Democratic turnout among voters who are poor, black, Latino, Asian-American or disabled.

Understanding that one way to win closely contested elections is to keep Democratic voters away

from the polls, the Republican Party has tried to stoke public fears of voter fraud. On Feb. 15, 2005, the U.S. Senate Republican Policy Committee issued a report, "Putting an End to Voter Fraud," which said, "Voter fraud continues to plague our nation's federal elections, diluting and canceling out the lawful votes of the vast majority of Americans." To remedy the situation, the Senate Republicans advised Congress to "require that voters at the polls show photo identification."

But voting experts maintain that voter fraud is not a national problem. In March, Lorraine C. Minnite, a professor of political science at Columbia University, released "The Politics of Voter Fraud," a report she prepared for Project Vote, an advocacy group based in Arkansas. She writes:

The claim that voter fraud threatens the integrity of American elections is itself a fraud. It is being used to persuade the public that deceitful and criminal voters are manipulating the electoral system. ... The exaggerated fear of voter fraud has a long history of scuttling efforts to make voting easier and more inclusive, especially for marginalized groups in American society. With renewed partisan vigor, fantasies of fraud are being spun again to undo some of the progress America has made lowering barriers to vote.

This is borne out by a study from the Eagleton Institute of Politics at Rutgers University, which found that in the 2004 election, voters in states that required documentation of identity were 2.7 percent less likely to vote than voters in states where documentation was not required. Specifically, the study, commissioned by the U.S. Election Assistance Commission, found that Latinos were 10 percent less likely to vote, Asian-Americans 8.5 percent less likely to vote and blacks 5.7 percent less likely to vote.

What's more, despite GOP claims to the contrary, voter fraud is a very rare occurrence. In 2002 the Justice Department established the Ballot Access and Voting Integrity Initiative to ferret out fraudulent voters. On Oct. 4, 2005, Attorney General Alberto Gonzales, with great fanfare, proclaimed, "We've made enforcement of election fraud and corrupting offenses a top priority." Yet according to an April 12 *New York Times* article, only 120 people have been charged with the crime over the past five years, leading to 86 convictions. Furthermore, the *Times* noted, federal attorneys say that most of the transgressions have been mistakes by immigrants and felons who simply misunderstood eligibility requirements.

The extent of voter fraud is further complicated by the fact that earlier this year the Election Assistance Commission changed the conclusions of a report it had commissioned. The original report by outside election experts concluded, "There is widespread but not unanimous agreement that there is little polling place fraud." The commission deleted that sentence and replaced it with, "There is a great deal of debate on the pervasiveness of fraud."

Rep. José Serrano (D.-N.Y.), who chairs the House Appropriations subcommittee that oversees the commission, is disturbed by this apparently politically motivated substitution. He told *In These Times* :

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### **Firing prosecutors**

It appears that, under Rove's direction the White House has been planning to use U.S. attorneys to fan national fears of voter fraud. In his speech to the GOP lawyers, Rove listed 11 states that would play a pivotal role in the 2008 elections. Since 2005, Bush has appointed new U.S. attorneys in nine of those states: Florida, Colorado, Wisconsin, Minnesota, Iowa, Michigan, Nevada, Arkansas and New Mexico.

What's more, the firings of U.S. attorneys in New Mexico, Arkansas and Washington appear directly related to this Republican plan to exploit the issue of voter fraud and suppress Democratic turnout.

In Arkansas, Bush fired a sitting U.S. attorney in order to appoint Rove protégé Tim Griffin. (See "The Talented Mr. Griffin" by Greg Palast on page 31.)

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In New Mexico, David C. Iglesias was equally suspect in the eyes of the GOP. Recall that in 2000, Gore beat Bush by 377 votes in New Mexico. Consequently, in 2004, Democrat-affiliated groups initiated voter registration campaigns in New Mexico. As a result, two boys, age 13 and 15, received voter cards in the mail. Iglesias responded by setting up a bipartisan task force to investigate. This didn't satisfy attorney Mickey D. Barnett, who represented the 2004 Bush-Cheney campaign in New Mexico. He told Iglesias he should bring federal charges against a canvasser who forged their signatures, which he refused to do.

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In his testimony, Hearne described ACVR as "committed to defending the rights of voters and working to increase public confidence in the fairness of the outcome of elections." And he submitted to the committee a copy of the ACVR's "Ohio Election Report," of which he was the lead author. That report read in part:

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Cheney's office. Brad Friedman of [BradBlog.com](http://BradBlog.com) reported that according to internet records, Dyke registered the ACVR Internet domain name, ac4vr.com, in December 2004. Those records have since disappeared from public view. (The source of ACVR's funding is also mysterious. According to the *Pittsburgh Tribune-Review*, "When asked to name any contributors to his nonprofit, Hearne claimed he did not know but said Lunde did. When Lunde was asked, he claimed he did not know but said Hearne did.")

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Minnite, who did the study on voter fraud, has read through the reports prepared by ACVR and presented by Hearne at various official hearings. She noticed that the claims follow a predictable script. "It all starts to look the same," she says. "There is a pattern in the way the documents that claim to show voter fraud are put together. It is usually a compilation of news reports on allegations. There is no follow up, no research done, no analysis."

"As I delved into it, I was faced with the question: 'Why do people think there is a lot of fraud when there isn't any real evidence?' I think people are being manipulated by politics, which takes the form of these reports that are dumped on the public. It is as if you get a big enough pile maybe you will convince people that the volume of fraud is quite large and that we have a serious problem."

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In 2005, U.S. Attorney Steve Biskup, who was appointed by Bush, investigated these allegations of voter fraud and reported that he found no evidence on which to press charges.

It turns out that early in 2005, Republican officials in Wisconsin prepared a report titled "Fraud in Wisconsin 2004: A Timeline/Summary." The document, which was found in White House and Justice Department records released by the House Judiciary Committee, was written by Chris Lato, the former communications director for the state Republican Party, on orders from Rick Wiley, the party's executive director. The 30-page report, which covers Aug. 31, 2004 to April 1, 2005, contains 65 entries detailing voter fraud. The final example is titled: "RPW [Republican Party of Wisconsin] News Release: Evidence of Election Fraud Piles Up."

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Presidential Election." In the introduction, the ACVR's Hearne and Lunde wrote that the report "documents hundreds of incidents and allegations from around the country. ... [T]housands of Americans were disenfranchised by illegal votes cast on Election Day 2004 ... [P]aid Democrat operatives were far more involved in voter intimidation and suppression activities than were their Republican counterparts. ... [R]equiring government-issued photo ID at the polls ... will help assure ... that no American is disenfranchised by illegal votes."

And who was behind this trail of misinformation? On April 7, Daniel Bice, a columnist for the *Milwaukee Journal Sentinel*, reported that a source familiar with the document told him, "The report was prepared for Karl Rove. Rick [Wiley] wanted it so he could give it to Karl Rove."

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Rove should know. He helped grow the problem.

Jeannie Layson  
U.S. Election Assistance Commission  
1225 New York Ave., NW  
Suite 1100  
Washington, DC 20005  
Phone: 202-566-3100  
[www.eac.gov](http://www.eac.gov)

Caroline C. Hunter/EAC/GOV  
04/19/2007 11:13 AM

To Jeannie Layson/EAC/GOV@EAC, Donetta L.  
Davidson/EAC/GOV@EAC, Gracia  
Hillman/EAC/GOV@EAC, Rosemary E.  
cc Juliet E. Hodgkins/EAC/GOV@EAC, Margaret  
Sims/EAC/GOV@EAC, Thomas R. Wilkey/EAC/GOV@EAC  
bcc

Subject Re: Rep. Serrano

I think someone should call Serrano but I think we should issue a press release that explains what transpired with the Eagleton and fraud study. We should note that the EAC is an independent federal entity, not part of the Admin and that the WH was not involved in any way in our decision to remove conclusions not supported by the underlying data.

Jeannie Layson

----- Original Message -----

**From:** Jeannie Layson  
**Sent:** 04/19/2007 10:11 AM EDT  
**To:** Donetta Davidson; Gracia Hillman; Caroline Hunter; Rosemary Rodriguez  
**Cc:** Juliet Hodgkins; Margaret Sims; Thomas Wilkey  
**Subject:** Rep. Serrano

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Bryan Whitener/EAC/GOV  
04/19/2007 06:19 PM

To Donetta L. Davidson/EAC/GOV@EAC, Rosemary E. Rodriguez/EAC/GOV@EAC, Caroline C. Hunter/EAC/GOV@EAC, Gracia Hillman/EAC/GOV@EAC  
cc Bert A. Benavides/EAC/GOV@EAC, Bola Olu/EAC/GOV@EAC, Brian Hancock/EAC/GOV@EAC, Curtis Crider/EAC/GOV@EAC, DeAnna M.

bcc

Subject FYI - Today's media inquiries ( 4-19-07, Thurs )

Commissioners:

Jeannie issued the following media inquiries log for today:

(1) I asked Rick Hasen of Election Law Blog to please post info about our Spanish language glossary of election terms, and he did.

(2) Eliza Carney, National Journal columnist, interviewed the chair today about the recent challenges EAC has encountered. She asked about CIBER, and the chair explained the interim process, the way we modeled our interim process after NVLAP. Eliza wanted to know what EAC was doing to address some of the criticism, and the chair talked about the bipartisan subcommittees and her request to the IG. She said Rep. Hinchey told her the only reason we released the voter ID report was because he asked for it at a hearing. The chair pointed out that in Feb. she asked staff to bring the commission recommendations for wrapping it up w/n 30 days. She asked the chair about the voter fraud report, and the chair said staff reviewed it for accuracy, as we have a responsibility to do. I sent her background info on the history of certification and the voluntary nature of the guidelines and our certification program. She also asked for info about our budgets, and our employee cap, which I sent to her.

(3) David Nather of Congressional Quarterly interviewed the chair about how the agency is standing up against all of the recent criticism. She talked about the bipartisan subcommittees and the IG review request. She said if the IG identifies things that need to be changed, we'll change them. He had emails b/w Peggy and Craig Donsanto about discrepancies with his interview. Peggy talked with the reporter about the issue. She explained that she sat in on the interview, and that she agreed with Craig that they had gotten something wrong -- they stated that DOJ had moved from focusing on fraud conspiracies to individual cases. Peg and Craig agreed that what he'd said was that DOJ used to only focus on conspiracies, now they also focus on individual cases too. Peg said Craig learned of the inaccurate portrayal during his role as the technical advisor to the working group. She said none of the people interviewed were given the opportunity to review the summaries. Craig found out about his through the working group, and Tanner learned about his interview summary after the boards were briefed on the project in May. He asked me if we were finished with the following research projects: -- ballot designs, voter registration methods, recount procedures, misinformation about election times and locations, and proposals to make election day a holiday. I told him all of that research is underway. HAVA-mandated research that's been completed includes Election Crimes (vote fraud), the 2004 Uniformed and Overseas Citizens Absentee Voting Act Survey, and the 2003-2004 National Voter Registration Act Survey. We've also released the 2004 Election Day Survey. And we've issued a series of quick management start guides to election officials throughout the nation, addressing voting system security, introducing a new voting system, ballot preparation, and poll workers. Yesterday, the commission adopted the Spanish language glossary of election terms, the first project released under EAC's Language Accessibility Program, which consists of working groups comprised of local election officials, national advocacy groups and research and public policy organizations to advise the commission on how to best meet language accessibility requirements. Next we will translate the glossary in five Asian languages. We also are working on a Legal Resources Clearinghouse, which will be a web-based database containing statutes, regulations, rules, and fed. and state court decisions related to election administration. It will provide the public and election officials a central location to conduct election administration research. I pointed out to him that we have already met two of the biggest HAVA mandates -- VVSG and the certification program. He asked for the ages of all the commissioners, and I gave it him.

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(4) Philip Burrowes of Congressional Quarterly asked for photos of all commissioners and their length of terms which we provided. He also asked for the names of the members of Congress who made recommendations to the White House regarding appointments. We provided the text of HAVA regarding recommendations and said he would need to ask the White House for names.

(5) Marc Songini of Computer World had the following questions, and my responses follow.

A. Is the EAC doing enough to strengthen voluntary voting system guidelines and voting system certification? EAC, the National Institute of Science and Technology (NIST), and the Technical Guidelines Development Committee (TGDC) have already completed an initial update of the 2002 standards. First, it is important to note that these guidelines are voluntary, and it is up to states whether to adopt them. The 2005 guidelines update and augment the 2002 voting system standards, as required by HAVA, to address advancements in election practices and computer technologies. After December of this year, voting systems will no longer be tested against the 2002 standards. The major changes from 2002 to 2005 fall in the areas of accessibility and usability. The changes made to these sections include a usability section which was not in the 2002 standards and increase the number of accessibility requirements from 29 to 120 and increase language accessibility requirements. The 2005 guidelines also created greater security requirements based on the new technology used in the voting machines, increasing standards in the areas of data transmission and voter verification. The 2005 guidelines also include a section on conformance testing that was not in the previous standards and included more requirements regarding wireless components. It also provides an overview of the requirements for Independent Verification systems, including requirements for a voter verified paper audit trail for states that require this feature for their voting systems. The VVSG includes the requirement that all voting system vendors submit software to a national repository, which will allow local election officials to make sure the voting system software they purchase is the same software that was certified. In addition, NIST and the TGDC are working on the next iteration of guidelines as we speak, and have said they expect to provide their recommendations to EAC by this summer. You may also want to contact Jan Kosko at NIST. Her number is 301-975-2767.

B. Regarding EAC resources, please see our operating budgets below. Note that the National Institute of Standards and Technology (NIST) receives a pass through in our budget, so that amount is not part of EAC's operating budget.

FY 2004 -- \$1.2 million

FY 2005 -- \$13.8 million (\$2.8 million of which was a pass through for NIST)

FY 2006 -- \$14 million (\$2.8 million of which was a pass through for NIST)

FY 2007 -- \$16.2 million (\$4.95 million of which was a pass through for NIST)

C. Regarding your inquiry about what EAC is doing to strengthen the certification program, the most important issue is that it is now a role the federal government has assumed for the very first time. In the past, this was done by the National Association of State Election Directors (NASED) on a volunteer basis. NASED is not a federal agency, and it did not receive any federal funds in its efforts. EAC made the decision not to grandfather any systems certified by NASED. So any system seeking an EAC certification must be tested end to end. Under EAC's program, which is laid out in our Testing and Certification Program Manual, the federal government will not only operate a more rigorous testing and certification process, it will also have a Quality Monitoring Program in place. For the first time manufacturers will be held accountable through not only this program, but also under the decertification process, which would be the ultimate sanction against a manufacturer. If a system is decertified, the manufacturer may not represent the system as being certified, may not label the system as certified, and the system will be removed from the EAC's list of certified voting systems. Election officials will be notified about the decertification. The Quality Monitoring Program will allow election officials to report anomalies. EAC will visit facilities for quality control purposes, and we will perform site reviews per states' requests. In addition, this program will be transparent. Information about the process and the manufacturers and test labs that participate will be posted on the agency's website. Go [here](#) for the list of documents and information we will provide. In addition to holding the manufacturers accountable, any federal employees involved with this program will have their financial holdings reviewed for potential conflicts of interest.

###

Bryan Whitener/EAC/GOV  
04/23/2007 11:25 AM

To Donetta L. Davidson/EAC/GOV@EAC, Rosemary E. Rodriguez/EAC/GOV@EAC, Caroline C. Hunter/EAC/GOV@EAC, Gracia Hillman/EAC/GOV@EAC  
cc Bert A. Benavides/EAC/GOV@EAC, Bola Olu/EAC/GOV@EAC, Brian Hancock/EAC/GOV@EAC, Curtis Crider/EAC/GOV@EAC, DeAnna M.  
bcc  
Subject CQ WEEKLY article today - Election Board Facing Votes of No Confidence

Commissioners:

We just accessed the following article that appears today in Congressional Quarterly's CQ WEEKLY.



wr20070423-17election-cht.pdf

#####

### Election Board Facing Votes of No Confidence

CQ WEEKLY - IN FOCUS  
Congressional Quarterly  
April 23, 2007 - Page 1164  
By David Nather, CQ Staff

After the turmoil over the 2000 presidential election, Congress created a bipartisan commission that was supposed to do nice, non-controversial things: hand out some federal grants, do some studies, certify voting machines, promote voting practices that seem to work well.

Instead, the Election Assistance Commission is now surrounded by controversy and tough questions. And the same lawmakers who could barely be bothered to pay attention to its creation four years ago are putting it under the microscope now.

Democrats were enraged by the commission's handling of a report on voter fraud – the panel ordered up the report (which found little evidence of fraud), sat on the document for several months, then released a rewritten version that concluded “there is a great deal of debate” about how much voter fraud takes place. Republicans have contended that voter fraud is a big problem and benefits Democrats.

A second commission report on voter identification laws found that the laws can reduce turnout, particularly among Hispanics. The panel delayed releasing that report for months, then made it public even while refusing to endorse its conclusions.

Voting rights groups have criticized the commission's handling of the reports, and two powerful Democratic senators – Dianne Feinstein of California, who chairs the Rules and Administration Committee, and Majority Whip Richard J. Durbin of Illinois, who chairs the Appropriations subcommittee that funds the commission – have asked the panel to answer a barrage of questions. More than anything, they want to know whether the commission received “any outside communication or pressure” to delay or change the reports.

The controversy has put a harsh spotlight on the commission in recent weeks, but it's hardly the only case where the panel's actions have gotten it into trouble. Last year, the commission angered Arizona's secretary of state when it refused to grant the state permission to require voters to provide proof of citizenship when they registered by mail using federal forms. Secretary of State Jan Brewer, a Republican, called the decision “inexcusably wrong” because Arizona's voters called for the requirement

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in Proposition 200 and because the Department of Justice had approved it.

On top of it all, secretaries of state have been suspicious of the commission all along, fearing that it would turn into yet another federal regulatory agency. The National Association of Secretaries of State called for the commission to be abolished after the 2006 election, since its three-year authorization expired at the end of fiscal 2005. New Hampshire Secretary of State William Gardner, a Democrat, urged the group to take that position because, he said, "I could see what could potentially be coming. . . . I remember when the Federal Election Commission was basically a clearinghouse as well."

These are a lot of pressures for a four-member commission with a staff of 19 and an operating budget of just over \$11 million, which got so little attention from Congress that it took a year before its first four members won Senate confirmation. The commission also has strict limits on what it can do under the 2002 election overhaul law that created it. Among other things, it's not supposed to be a regulatory agency – though it does have some authority under the National Voter Registration Act of 1993, the "motor voter" law that was at issue in the Arizona dispute.

### 'We Took On Too Much'

Donetta L. Davidson, the Republican who in January became the commission's third chairman, says she takes seriously the questions about the reports on voter fraud and voter identification. The commission has referred the issue to its own inspector general, asking him to take a hard look at the panel's contracting procedures for outside research projects. "We want to be as transparent as possible," Davidson said.

But Davidson, who was previously Colorado's secretary of state, says the biggest problem was that the commission may have been trying to move too many reports with a small staff that mostly works with outside contractors rather than producing its own research. "I think that was our biggest mistake – being too aggressive," she said. "We just took on too much."

That explanation won't quiet the criticism. House Majority Leader Steny H. Hoyer, a Maryland Democrat and one of the authors of the 2002 law, is concerned that the commission "may have mishandled taxpayer-financed reports" and has called for hearings, said spokeswoman Stacey Farnen Bernards. Feinstein's committee already has an oversight hearing tentatively scheduled for June.

Voting rights groups are highly suspicious of the commission's actions, though there is no evidence the administration interfered with the reports. Jonah Goldman, director of the Lawyers' Committee for Civil Rights Under Law, said it "just seems a little too convenient that there's no political motive" given that the administration reportedly fired some U.S. attorneys because they were not aggressive in prosecuting alleged voter fraud.

And even those who don't subscribe to a political conspiracy find fault with the commission's handling of the reports. "I think they're just trying to avoid controversy, and trying to avoid controversy is not what we need right now," said Richard L. Hasen, an election-law expert at Loyola Law School in Los Angeles. "With all the problems we're having with elections in this country, we need bold leadership, and they're not providing it."

### Congressional Alarm Bells

Davidson insists that the commission doesn't shy away from controversial subjects. "That's our job," she said. Indeed, the law spells out a list of reports the commission is supposed to produce, and they touch on nearly every hot-button election issue imaginable: ballot designs, voter registration methods, recount procedures, the handling of misinformation about election times and locations, and even proposals to make Election Day a holiday.

Much of the commission's other work is advice and testing of voting systems. In 2005, it published guidelines that dealt with security issues, paper audit trails, and accommodations for voters with

disabilities. And last year, it started testing and certifying voting systems in preparation for the 2008 election.

Still, the way the voter fraud and identification reports were handled and the possibility that the Justice Department influenced the reports have alarmed some members of Congress.

That issue won't be settled until the hearings have been held and the inspector general's office has issued its report. But the back story of one incident with the voter fraud report – in which two Justice officials secured changes to the summaries of their interviews for the report – suggests the department was more than a bystander in the voter fraud study.

In the appendix, which summarizes all of the expert interviews conducted for the fraud report, two Justice officials' interviews are included: Craig Donsanto, director of the Election Crimes Branch of the Public Integrity Section, and John Tanner, chief of the Civil Rights Division's Voting Section. In both cases, a footnote declares that "this interviewee did not agree with the consultants' interpretation of his interview comments" and that the commission made "clarifying edits." No such note accompanies any of the other expert interviews.

Donsanto got to see the summary of his interview because he was a technical adviser to the working group. He thought the summary erroneously implied that his unit didn't pursue systematic fraud schemes anymore, only individual cases like voting by felons and non-citizens. He worried that civil rights groups would think their constituencies were being singled out. Peggy Sims, an election research specialist at the commission who managed the project, agreed and had it changed.

Tanner took issue with the suggestion that he had said the Department of Justice wasn't pursuing voter-suppression cases anymore, and provided examples of cases where it was doing just that. His remarks were corrected.

Sims said that neither Donsanto nor Tanner got to weigh in on the entire report before it was released.

Such controversies are inevitable given that some lawmakers are worried about political influence on the commission and others are concerned it might grow too powerful. Elections are emotional, and even a bipartisan panel will have disagreements. When the four commissioners tried to revisit the Arizona decision, for instance, they deadlocked on party lines, something that also happens periodically to the bipartisan Federal Election Commission.

But the commission can go a long way, voting rights groups say, simply by operating with more transparency and establishing more written procedures for making decisions. "It is a relatively young agency," said Wendy R. Weiser of the Brennan Center for Justice at the New York University School of Law. "But they've been around long enough that this is no longer acceptable."

Davidson said more transparency and better procedures are her goals as well. "Definitely I hear what Congress is saying," she said. "We're a bipartisan commission, and we want to do the right thing." Now, in a year when lawmakers say they're trying to improve oversight, it's up to Congress to decide whether it is interested enough in its own creation to help the commissioners do the right thing.

FOR FURTHER READING: Voter fraud and U.S. attorneys, CQ Weekly, p. 968; commission's creation, 2003 CQ Weekly, p. 3059; election law (PL 107-252), 2002 Almanac, p. 14-3; motor-voter law (PL 103-31), 1993 Almanac, p. 199. Source: CQ Weekly. The definitive source for news about Congress.

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## Who's Who on the Commission

The Election Assistance Commission was created in 2002 to help states comply with federal rules and to set standards and distribute grants for voting equipment. Its members, two from each party, are nominated by the president and confirmed by the Senate to four-year terms that are renewable once.



**Donetta L. Davidson** (Republican) was appointed in 2005 and is the current chairwoman. She had been Colorado's secretary of state for six years and before that state elections director and a county clerk in suburban Denver. Her term expires in December.



**Gladia M. Hillman** (Democrat) is a longtime figure in the voting rights movement and a former executive director of the League of Women Voters. She was president of a Washington consulting company when appointed in 2003. Her term expired in 2005, but she is serving until a replacement is named.



**Caroline C. Hunter** (Republican) was deputy director of the White House Office of Public Liaison when President Bush appointed her in 2007. She is a former attorney for the Republican National Committee and ombudsman for the Bureau of Citizenship and Immigration Services. Her term expires in February 2011.



**Rosemary E. Rodriguez** (Democrat) was finishing her third year on the Denver City Council when she was appointed in 2007 to replace Ray Martinez, who resigned. She had previously been Denver's city clerk and director of boards and commissions for the mayor. Her term expires in December.

Bryan Whitener/EAC/GOV  
04/30/2007 06:03 PM

To Donetta L. Davidson/EAC/GOV@EAC, Rosemary E.  
Rodriguez/EAC/GOV@EAC, Caroline C.  
Hunter/EAC/GOV@EAC, Gracia Hillman/EAC/GOV@EAC  
cc Bert A. Benavides/EAC/GOV@EAC, Bola  
Olu/EAC/GOV@EAC, Brian Hancock/EAC/GOV@EAC,  
Curtis Crider/EAC/GOV@EAC, DeAnna M.  
bcc

Subject FYI - Today's media inquiries ( 4-30-07, Mon )

Commissioners,

(1) Leslie Clark of the Miami Herald plans to attend tomorrow's public meeting. Today she asked whether Florida is required to abide by EAC reply to their request. We said that EAC is the cognizant agency for most of the HAVA funding programs. We said that EAC therefore has the responsibility to advise and instruct states regarding the appropriate use of these funds consistent with the provisions of HAVA as well as circulars developed by OMB Circulars A-87 which governs the use of federal funds to purchase goods for state and local governments.

(2) Dana Burke, News Editor for the Citizen in Webster, TX is working on a story regarding voter identification requirements in Texas. She said Democrats opposed to the new legislation have referred to EAC's voter ID study and point to a correlation between more stringent voter id requirements and lower voter turnout, especially among minority groups. She noticed EAC's statement regarding a request for review, asked if the study is considered valid and whether the assessment by opponents of the legislation is correct. We sent her the following two links and replied that our Inspector General is currently reviewing the circumstances surrounding this research and that when that process is complete we'll be glad to discuss it further.


**04/16/07 - EAC Requests Review of Voter ID, Vote Fraud & Voter Intimidation Research Projects**

**News Release: 3/30/07 - EAC to Launch Comprehensive Study of Voter ID Laws**

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027137

Margaret Sims/EAC/GOV  
05/15/2006 02:48 PM

To Elieen L. Collver/EAC/GOV@EAC  
cc dromig@eac.gov  
bcc  
Subject Re: working group 

History

 This message has been replied to.

Elle:

I think our number will be about 21 (with the Working Group members, consultants, possible EAC Commissioners and staff, and the court reporter). I'll have a better idea of the final list after I brief Commissioners tomorrow morning. Devon noted that they used only tent cards for the Asian Language Working Group. That might be sufficient for this group and would cut back on some of the work we have to do in preparation. --- Peggy

Elieen L. Collver/EAC/GOV



Elieen L. Collver/EAC/GOV  
05/15/2006 12:19 PM

To Margaret Sims/EAC/GOV@EAC  
cc Laiza N. Otero/EAC/GOV@EAC, dromig@eac.gov@EAC  
Subject working group

Peggy,

In preparation for the logistics of this week's working group, I need to know how many people to expect for the meeting. Also, if you still need me to make name tags, I will need a list of attendees and the avery label size.

Also, I will need help from Laiza on the table tents, or we can see if she has the time to help with that.


Thanks!

Elle

Elle L.K Collver  
U.S. Election Assistance Commission  
1225 New York Avenue, Suite 1100  
Washington, D.C. 20005  
office: (202) 566-2256  
blackberry: (202) 294-9251  
www.eac.gov

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Margaret Sims/EAC/GOV  
05/15/2006 03:52 PM

To Gaylin Vogel/EAC/GOV@EAC  
cc Devon E. Romig/EAC/GOV@EAC, Eileen L.  
Colliver/EAC/GOV@EAC  
bcc  
Subject Re: working group 

The contracts for the two consultants on this project do not cover such costs. --- Peggy

027139

Margaret Sims/EAC/GOV  
05/16/2006 01:36 PM

To Elieen L. Collver/EAC/GOV@EAC  
cc dromig@eac.gov  
bcc


Subject Tent Cards

History:  This message has been replied to and forwarded.

Attached is a list of folks who will be attending the Voting Fraud-Voter Intimidation Working Group meeting. I have asterisked the names that will require tent cards. I am working on a seating chart so that we can be sure the Ds and the Rs aren't all seated together in a "them vs. us" pattern. --- Peggy

027140

Margaret Sims/EAC/GOV  
05/16/2006 02:37 PM

To Elieen L. Collver/EAC/GOV@EAC  
cc dromig@eac.gov  
bcc  
Subject Re: Tent Cards 

History:  This message has been forwarded

Oops! I hit send prematurely. Here is the attachment. --- Peggy




Working Group Attendees 5-18-06.doc

Elieen L. Collver/EAC/GOV



Elieen L. Collver/EAC/GOV  
05/16/2006 01:38 PM

To Margaret Sims/EAC/GOV@EAC  
cc dromig@eac.gov  
Subject Re: Tent Cards 

Please forward list...there was no attachment. thanks!

Elle L.K Collver  
U.S. Election Assistance Commission  
1225 New York Avenue, Suite 1100  
Washington, D.C. 20005  
office: (202) 566-2256  
blackberry: (202) 294-9251  
www.eac.gov  
Margaret Sims/EAC/GOV

Margaret Sims/EAC/GOV  
05/16/2006 01:36 PM

To Elieen L. Collver/EAC/GOV@EAC  
cc dromig@eac.gov  
Subject Tent Cards

Attached is a list of folks who will be attending the Voting Fraud-Voter Intimidation Working Group meeting. I have asterisked the names that will require tent cards. I am working on a seating chart so that we can be sure the Ds and the Rs aren't all seated together in a "them vs. us" pattern. --- Peggy

027141

**Voting Fraud-Voter Intimidation Working Group Attendees**  
**May 18, 2006**

**The Honorable Todd Rokita\***

Indiana Secretary of State

**Kathy Rogers\***

Director of Elections, Georgia Office of the Secretary of State

**J.R. Perez\***

Guadalupe County Elections Administrator, TX

**Jon Greenbaum\***

Director, Voting Rights Project, Lawyers Committee for Civil Rights Under Law  
(Representing Working Group member Barbara Arnwine, Executive Director,  
Lawyers Committee for Civil Rights Under Law and Leader of Election Protection  
Coalition)

**Robert Bauer\***

Partner, Perkins Coie

**Benjamin Ginsberg\***

Partner, Patton Boggs LLP

**Mark (Thor) Hearne II**

Partner-Member, Lathrop & Gage

**Barry Weinberg\***

Former Deputy Chief and Acting Chief, Voting Section, Civil Rights Division, U.S.  
Department of Justice

*EAC Invited Technical Advisor:*

**Craig Donsanto\***

Director, Election Crimes Branch, U.S. Department of Justice

*EAC Commissioners, Consultants & Staff*

**Job Serebrov\***

EAC Consultant

**Tova Wang\***

EAC Consultant

**Paul DeGregorio\***

EAC Chairman

**Ray Martinez\***

EAC Vice Chairman

**Gavin Gilmour\***

EAC Associate General Counsel

**Peggy Sims\***

EAC Staff

**Edgardo Cortés\***

EAC Staff

**Elle Collver**

EAC Staff

**Devon Romig**

EAC Intern

*Will stop by to greet, but will not sit at table*

**Tom Wilkey**

EAC Executive Director

**Julie Thompson-Hodgkins**

EAC General Counsel

**\* To be seated at table with name tents.**

Caroline C. Hunter/EAC/GOV  
03/13/2007 04:36 PM

To Karen Lynn-Dyson/EAC/GOV@EAC  
cc Donetta L. Davidson/EAC/GOV@EAC, Gracia  
Hillman/EAC/GOV@EAC, Jeannie Layson/EAC/GOV@EAC,  
Juliet E. Hodgkins/EAC/GOV@EAC,  
bcc

Subject Re: Latest draft of the EAC Voter ID statement 

Attached, please find my edits. My intention was to try to explain in English how the Contractor conducted the study in the 2nd graph of the background statement. I realize I left some information out; for example, how he ran the numbers based on maximum and minimum id requirements. I am open to any suggestions on how to better describe what they did; however, despite reading the report and Appendix C many times, I am still do not understand exactly how the study was conducted. I think we should run the 2nd graph by the Contractor to ensure its accuracy.



VoterID Hunter edits.doc

Caroline C. Hunter  
Commissioner  
Election Assistance Commission  
1225 New York Avenue, NW  
Suite 1100  
Washington, DC 20005  
(202) 566-3107  
chunter@eac.gov  
www.eac.gov

Karen Lynn-Dyson/EAC/GOV

Karen Lynn-Dyson/EAC/GOV

03/09/2007 05:20 PM

To Caroline C. Hunter/EAC/GOV@EAC, Donetta L.  
Davidson/EAC/GOV@EAC, Gracia  
Hillman/EAC/GOV@EAC, [REDACTED]  
cc Juliet E. Hodgkins/EAC/GOV@EAC, Jeannie  
Layson/EAC/GOV@EAC, twilkey@eac.gov  
Subject Latest draft of the EAC Voter ID statement

Commissioners-

Commissioner Hunter noted that several changes to the draft that she had recommended were not included in the latest draft that I sent to Julie and Jeannie. had.

Attached please find this new version which I hope accurately reflects her suggestions; we are asking that everyone take a look at this version.

Please get me your comments and recommended edits by Monday.

Thanks-

027144



Voter ID Statement March 9.doc

Karen Lynn-Dyson  
Research Director  
U.S. Election Assistance Commission  
1225 New York Avenue , NW Suite 1100  
Washington, DC 20005  
tel:202-566-3123

027145

## EAC Statement on Future Study of Voter Identification Requirements

### Background

The Help America Vote Act of 2002 (HAVA) authorizes the United States Election Assistance Commission (EAC) to conduct periodic studies of election administration issues. In May 2005, EAC contracted with Rutgers, the State University of New Jersey through its Eagleton Institute of Politics ("Contractor") to perform a review and legal analysis of state legislation, administrative procedures and court cases, and to perform a literature review on other research and data available on the topic of voter identification requirements. Further, the Contractor was asked to analyze the problems and challenges of voter identification, to hypothesize alternative approaches and to recommend various policies that could be applied to these approaches.

The Contractor performed a statistical analysis of the relationship of various requirements for voter identification to voter turnout in the 2004 election. The contractor compared states with similar voter identification requirements and drew conclusions based on comparing turnout rates among states for one election – November 2004. For example, the turnout rate in 2004 in states with a photo identification requirement was compared to the turnout rate in 2004 in states with a requirement that voters sign their name in order to receive a ballot. Contractor used two sets of data to estimate turnout rates: 1) voting age population estimates<sup>1</sup> and 2) individual-level survey data from the November 2004 Current Population Survey conducted by the U.S. Census Bureau.<sup>2</sup> The contractor and the EAC agree that the report raises more questions than provides answers.<sup>3</sup>

**Deleted:** Using two sets of data-- aggregate turnout data at the county level for each state, and reports of individual voters collected in the November 2004 Current Population Survey conducted by the U.S. Census Bureau-- the Contractor arrived at a series of findings, conclusions and subsequent recommendations for further research into the topic.¶

The Contractor presented testimony summarizing its findings from this statistical and data analysis at the February 8, 2007 public meeting of the U.S. Election Assistance Commission. The Contractor's testimony, its summary of voter identification requirements by State, its summary of court decisions and literature on voter identification and related issues, an annotated bibliography on voter identification issues and its summary of state statutes and regulations affecting voter identification are attached to this report and can also be found on EAC's website, [www.eac.gov](http://www.eac.gov).

### EAC Recommendations for further study and next steps

EAC finds the Contractor's summary of States' voter identification requirements and its summary of state laws, statutes, regulations and litigation surrounding the

<sup>1</sup> The July 2004 estimates for voting age population were provided by the U.S. Census Bureau. Because these numbers include non-citizens, the Contractor reduced the numbers by the same percentage the U.S. Census Bureau estimated were non-citizens in 2000. Estimates of voting age population include persons who are not registered to vote.

<sup>2</sup> The Current Population Survey is based on reports from self-described registered voters who also describe themselves as U.S. citizens.

<sup>3</sup> See EAC Public Testimony, February 8, 2007, page 109.

implementation of voter identification requirements, to be a first step in the Commission's consideration of voter identification requirements.

However, EAC has concerns regarding the research and statistical methodology the Contractor chose to employ in order to analyze voter identification requirements and the potential variation in turnout rates based on the type of voter identification requirements. EAC is not adopting the report submitted by the Contractor and, therefore, is not releasing the report.

EAC will engage in a longer-term, more systematic review of voter identification requirements. Additional study on the topic will include more than one Federal election cycle, additional environmental and political factors that effect voter participation, and the numerous changes in state laws and regulations related to voter identification requirements that have occurred since 2004.

EAC will undertake the following activities:

- Conduct an ongoing state-by-state review, reporting and tracking of voter identification requirements. This will include tracking states' requirements which require a voter to state this or her name, to sign his or her name, to match his or her signature to a signature on file, to provide photo or non-photo identification or to swear an affidavit affirming his or her identify.
- Establish a baseline of information that will include factors that may affect or influence Citizen Voting Age Population (CVAP) voter participation, including various voter identification requirements, the competitiveness of a race and certain environmental or political factors. EAC will use some of the information collected by Eagleton as well as additional data from the states to develop this baseline.
- Convene, by mid-2007, a working group of advocates, academics, research methodologists and election officials to discuss EAC's next study of voter identification. Topics to be discussed include methodology, specific issues to be covered in the study and timelines for completing an EAC study on voter identification.
- Study how voter identification provisions that have been in place for two or more Federal elections have impacted voter turnout, voter registration figures, and fraud. Study the effects, including voter turnout, voter registration, and fraud, of voter identification provisions, or the lack thereof, on early, absentee and vote-by-mail voting. Included in this study will be an examination of the relationship between voter turnout and other factors such as race and gender.
- Publish a series of best practice case studies which detail a particular state's or jurisdiction's experiences with educating poll workers and voters about various

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voter identification requirements. Included in the case studies will be detail on the policies and practices used to educate and inform poll workers and voters.

DRAFT

## **EAC Statement on Future Study of Voter Identification Requirements**

### **Background**

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The Contractor performed a statistical analysis of the relationship of various requirements for voter identification to voter turnout in the 2004 election. Using two sets of data-- aggregate turnout data at the county level for each state, and reports of individual voters collected in the November 2004 Current Population Survey conducted by the U.S. Census Bureau-- the Contractor arrived at a series of findings, conclusions and subsequent recommendations for further research into the topic.

The Contractor presented testimony summarizing its findings from this statistical and data analysis at the February 8, 2007 public meeting of the U.S. Election Assistance Commission. The Contractor's testimony, its summary of voter identification requirements by State, its summary of court decisions and literature on voter identification and related issues, an annotated bibliography on voter identification issues and its summary of state statutes and regulations affecting voter identification are attached to this report and can also be found on EAC's website, [www.eac.gov](http://www.eac.gov).

### **EAC Recommendations for further study and next steps**

EAC finds the Contractor's summary of States' voter identification requirements and its summary of state laws, statutes, regulations and litigation surrounding the implementation of voter identification requirements, to be a first step in the Commission's consideration of voter identification requirements.

However, EAC has concerns regarding the research and statistical methodology the Contractor chose to employ in order to analyze voter identification requirements and the potential variation in turnout rates based on the type of voter identification requirements. EAC is not adopting the report submitted by the Contractor and, therefore, is not releasing the report.

EAC will engage in a longer-term, more systematic review of voter identification requirements. Additional study on the topic will include more than one Federal election

cycle, additional environmental and political factors that effect voter participation, and the numerous changes in state laws and regulations related to voter identification requirements that have occurred since 2004.

EAC will undertake the following activities:

- Conduct an ongoing state-by-state review, reporting and tracking of voter identification requirements. This will include tracking states' requirements which require a voter to state this or her name, to sign his or her name, to match his or her signature to a signature on file, to provide photo or non-photo identification or to swear an affidavit affirming his or her identify.
- Establish a baseline of information that will include factors that may affect or influence Citizen Voting Age Population (CVAP) voter participation, including various voter identification requirements, the competitiveness of a race and certain environmental or political factors. EAC will use some of the information collected by Eagleton as well as additional data from the states to develop this baseline.
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Juliet E. Hodgkins/EAC/GOV  
03/13/2007 06:06 PM

To "Davidson, Donetta" <ddavidson@eac.gov>, Gracia  
Hillman/EAC/GOV@EAC, Caroline C.  
Hunter/EAC/GOV@EAC, rosemaryrod2003@yahoo.com  
cc Thomas R. Wilkey/EAC/GOV@EAC

bcc

Subject Edited version of the Voter ID statement

Commissioners,

I intended to get this out to you much earlier today, but the day got away from me. After our hearing last week before the House Appropriations Subcommittee and the requests that were made for the draft reports of the Eagleton and Voter Fraud studies, I think that we must take a different approach to addressing the quality of these reports. While it may or may not be our intention to release these documents publicly, we MUST respond to the request made from a Congressional Committee and cannot use FOIA exemptions as FOIA does not apply to them. I believe that it is safe to assume that if we provide these documents to the Committee, even with a letter explaining their predecisional nature, that these documents will be released into the public spectrum. As such, I feel that EAC needs to make a statement regarding the quality of these reports and why we are making (or have made) a decision not to adopt the draft reports that were produced by our contractors.

Thus, I edited the statement that Karen produced with comments that reflect why we will not adopt the Eagleton report. That document is attached below. I would suggest that we put similar statements regarding Eagleton's report and the Voter Fraud draft report into a letter that I am drafting to go to the Committee with the requested documents. I will edit that letter to include similar comments tonight/tomorrow morning and will circulate it to you.

Please let me know if you have any questions, concerns, comments, etc.

Juliet Thompson Hodgkins  
General Counsel  
United States Election Assistance Commission  
1225 New York Ave., NW, Ste 1100  
Washington, DC 20005



(202) 566-3100 Voter ID edited.doc

027151

## EAC Statement on Future Study of Voter Identification Requirements

### Background

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higher turnout rate than other conventional data on that point) was conducted that produced only some evidence of correlation between voter identification requirements and turn out. Furthermore, the initial categorization of voter identification requirements included classifications that actually require no identification at all, such as "state your name." These data and the statistical analysis used by the Contractor were rightly criticized by independent working and peer review groups comprised of social scientists and statisticians. EAC believes that the Contractor's recommendation or draft report is so fundamentally flawed that none of the draft findings can be adopted or rehabilitated to form a reliable, accurate and useful product. Thus, EAC will not issue a report based upon this study.

**Deleted:** is not adopting the report submitted by the Contractor and, therefore, is not releasing the

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DRAFT



"Rosemary Rodriguez"  
<rosemaryrod2003@yahoo.com>

03/14/2007 09:33 AM

To jhodgkins@eac.gov, "Davidson, Donetta"  
<ddavidson@eac.gov>, ghillman@eac.gov,  
chunter@eac.gov  
cc twilkey@eac.gov

bcc

Subject Re: Edited version of the Voter ID statement

Is this the latest draft?

----- Original Message -----

From: "jhodgkins@eac.gov" <jhodgkins@eac.gov>

To: "Davidson, Donetta" <ddavidson@eac.gov>; ghillman@eac.gov; chunter@eac.gov;  
rosemaryrod2003@yahoo.com

Cc: twilkey@eac.gov

Sent: Tuesday, March 13, 2007 6:06:46 PM

Subject: Edited version of the Voter ID statement

Commissioners,

I intended to get this out to you much earlier today, but the day got away from me. After our hearing last week before the House Appropriations Subcommittee and the requests that were made for the draft reports of the Eagleton and Voter Fraud studies, I think that we must take a different approach to addressing the quality of these reports. While it may or may not be our intention to release these documents publicly, we MUST respond to the request made from a Congressional Committee and cannot use FOIA exemptions as FOIA does not apply to them. I believe that it is safe to assume that if we provide these documents to the Committee, even with a letter explaining their predecisional nature, that these documents will be released into the public spectrum. As such, I feel that EAC needs to make a statement regarding the quality of these reports and why we are making (or have made) a decision not to adopt the draft reports that were produced by our contractors.

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Please let me know if you have any questions, concerns, comments, etc.

Juliet Thompson Hodgkins  
General Counsel  
United States Election Assistance Commission  
1225 New York Ave., NW, Ste 1100  
Washington, DC 20005  
(202) 566-3100

027155

No need to miss a message. Get email on-the-go  
with Yahoo! Mail for Mobile. Get started.

Karen Lynn-Dyson/EAC/GOV  
03/14/2007 05:46 PM

To John.Weingart@rutgers.edu  
cc tom\_oneill@verizon.net  
bcc Donetta L. Davidson/EAC/GOV  
Subject Re: EAC Statement on its future study of Voter ID requirements 

John and Tom-

EAC staff are putting the finishing touches on the statement and data it will be releasing, in the next several days, related to voter identification study.

In our brief statement we will be summarizing what Rutgers/Eagleton did when performing its statistical analysis.

Could you review the following statement for accuracy and send me any revisions and edits to it by Friday March 16, 2007?

" The Contractor performed a statistical analysis of the relationship of various requirements for voter identification to voter turnout in the 2004 election. The Contractor compared states with similar voter identification requirements and drew conclusions based on comparing turnout rates among states for one election- November 2004. For example, the turnout rate in 2004 in states with a photo identification requirement was compared to the turnout rate in 2004 in states with a requirement that voters sign his or her name in order to receive a ballot. The Contractor used two sets of data to estimate turnout rates: 1) voting age population estimates 1 and 2) individual-level survey data from the November 2004 Current Population Survey conducted by the U.S. Census Bureau2 "

Footnotes:

1 The July 2004 estimates for voting age population were provided by the U.S. Census Bureau. Because these numbers include non-citizens, the Contractor reduced the numbers by the same percentage the U.S. Census Bureau estimated were non-citizens in 2000. Estimates of voting age population includes persons who are not registered to vote.

2. The Current Population Survey is based on reports from self-described registered voters who also describe themselves as U.S citizens.

Thanks for your feedback

Regards

Karen Lynn-Dyson  
Research Director  
U.S. Election Assistance Commission  
1225 New York Avenue , NW Suite 1100  
Washington, DC 20005  
tel:202-566-3123

027157

Juliet E. Hodgkins/EAC/GOV  
03/16/2007 09:41 AM

To "Davidson, Donetta" <ddavidson@eac.gov>, Gracia  
Hillman/EAC/GOV@EAC, Caroline C.  
Hunter/EAC/GOV@EAC, rosemaryrod2003@yahoo.com  
cc Thomas R. Wilkey/EAC/GOV@EAC, jlayson@eac.gov  
bcc

Subject Voter ID statement

Commissioners,

Attached below are two versions of the Voter ID statement. One shows the track changes and the other shows the document having accepted all of those changes (so that it would be easier to read). Jeannie and Tom have both taken a look at this document and we think that it captures what we discussed on Wednesday.

Please take a look and let me know if this meets with your understanding of what we discussed.

Juliet Thompson Hodgkins  
General Counsel  
United States Election Assistance Commission  
1225 New York Ave., NW, Ste 1100  
Washington, DC 20005



(202) 566-3100 Voter ID edited 31507- track changes.doc Voter ID edited 31507- changes accepted.doc

027158

## EAC Statement on Future Study of Voter Identification Requirements

### Background

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The Contractor presented testimony summarizing its findings from this statistical and data analysis at the February 8, 2007 public meeting of the U.S. Election Assistance Commission. The Contractor's testimony, its summary of voter identification requirements by State, its summary of court decisions and literature on voter identification and related issues, an annotated bibliography on voter identification issues and its summary of state statutes and regulations affecting voter identification are attached to this report and can also be found on EAC's website, [www.eac.gov](http://www.eac.gov).

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<sup>3</sup> See EAC Public Testimony, February 8, 2007, page 109.

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DRAFT

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DRAFT

Caroline C. Hunter/EAC/GOV  
03/16/2007 11:43 AM

To Juliet E. Hodgkins/EAC/GOV@EAC, Donetta L.  
Davidson/EAC/GOV@EAC, Gracia  
Hillman/EAC/GOV@EAC, [REDACTED]  
cc Thomas R. Wilkey/EAC/GOV@EAC, Jeannie  
Layson/EAC/GOV@EAC, [REDACTED]  
bcc  
Subject Re: Voter ID statement 

This looks good to me, thank you Julie. Two things- did Eagleton  
approve the 2nd graph and I made a minor change to the 4th bullet as a point of clarification.

Juliet E. Hodgkins

----- Original Message -----

From: Juliet E. Hodgkins  
Sent: 03/16/2007 09:41 AM EDT  
To: Donetta Davidson; Gracia Hillman; Caroline Hunter;  
[REDACTED]  
Cc: Thomas Wilkey; Jeannie Layson  
Subject: Voter ID statement

Commissioners,

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Please take a look and let me know if this meets with your understanding of what we discussed.

[attachment "Voter ID edited 31507- track changes.doc" deleted by Caroline C. Hunter/EAC/GOV]  
[attachment "Voter ID edited 31507- changes accepted.doc" deleted by Caroline C. Hunter/EAC/GOV]

Juliet Thompson Hodgkins  
General Counsel  
United States Election Assistance Commission  
1225 New York Ave., NW, Ste 1100  
Washington, DC 20005  
(202) 566-3100

027165

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However, EAC has concerns regarding the data, analysis and statistical methodology the Contractor chose to employ in order to analyze voter identification requirements to determine if these laws have an impact on turnout rates. The Contractor used a single election's statistics to conduct this analysis. The two sets of data came from the Census Bureau and included persons who were not eligible to and did not vote. The first analysis using averaged county-level turnout data from the U.S. Census showed no statistically significant correlations. So, a second analysis using a less reliable data set based upon the Current Population Survey (which was self-reported and showed a significantly

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**Deleted:** is not adopting the report submitted by the Contractor and, therefore, is not releasing the

EAC will engage in a longer-term, more systematic review of voter identification requirements. Additional study on the topic will include more than one Federal election cycle, additional environmental and political factors that effect voter participation, and the numerous changes in state laws and regulations related to voter identification requirements that have occurred since 2004.

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Gracia Hillman/EAC/GOV  
03/16/2007 01:22 PM

To Juliet E. Hodgkins/EAC/GOV@EAC, Thomas R.  
Wilkey/EAC/GOV@EAC  
cc Jeannie Layson/EAC/GOV@EAC, Donetta L.  
Davidson/EAC/GOV@EAC, Caroline C.  
Hunter/EAC/GOV@EAC, rosemaryrod2003

bcc

Subject Re: Voter ID statement

Why is it that Karen is not in the email loop on this circulation?

-----  
Sent from my BlackBerry Wireless Handheld  
Juliet E. Hodgkins  
----- Original Message -----

**From:** Juliet E. Hodgkins  
**Sent:** 03/16/2007 09:41 AM EDT  
**To:** Donetta Davidson; Gracia Hillman; Caroline Hunter;  
rosemaryrod2003@yahoo.com  
**Cc:** Thomas Wilkey; Jeannie Layson  
**Subject:** Voter ID statement

Commissioners,

Attached below are two versions of the Voter ID statement. One shows the track changes and the other shows the document having accepted all of those changes (so that it would be easier to read). Jeannie and Tom have both taken a look at this document and we think that it captures what we discussed on Wednesday.

Please take a look and let me know if this meets with your understanding of what we discussed.

[attachment "Voter ID edited 31507- track changes.doc" deleted by Gracia Hillman/EAC/GOV]  
[attachment "Voter ID edited 31507- changes accepted.doc" deleted by Gracia Hillman/EAC/GOV]

Juliet Thompson Hodgkins  
General Counsel  
United States Election Assistance Commission  
1225 New York Ave., NW, Ste 1100  
Washington, DC 20005  
(202) 566-3100

027178




Gracia Hillman/EAC/GOV

03/19/2007 03:58 PM

To Juliet E. Hodgkins/EAC/GOV@EAC

cc Caroline C. Hunter/EAC/GOV@EAC, "Davidson, Donetta"  
<ddavidson@eac.gov>, jlayson@eac.gov, Karen  
Lynn-Dyson/EAC/GOV@EAC,

bcc

Subject Re: Revised Voter ID statement with Eagleton comments to  
paragraph 2 

I think Comm Rodriguez makes a good point about the document needing a different title. Also, it is my understanding that Jeannie has not yet edited the draft and therefore has not yet considered layout, subtitles, typos, etc.

I have raised three concerns/questions in Footnotes 2 and 4 and in the bullet that address the working group meeting.

Lastly, I have lost track of where we are with consideration of releasing the full report. The draft document does not do that, however I thought there was a suggestion that we should consider releasing the full report?



Voter ID edited 31507- changes accepted with Eagleton comments.doc

027179

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**Deleted:** The Contractor performed a statistical analysis of the relationship of various requirements for voter identification to voter turnout in the 2004 election. Using two sets of data-- aggregate turnout data at the county level for each state, and reports of individual voters collected in the November 2004 Current Population Survey conducted by the U.S. Census Bureau-- the Contractor arrived at a series of findings, conclusions and subsequent recommendations for further research into the topic.

### EAC Recommendations for further study and next steps

EAC finds the Contractor's summary of States' voter identification requirements and its summary of state laws, statutes, regulations and litigation surrounding the implementation of voter identification requirements, to be a first step in the Commission's efforts to study the possible impact of voter identification requirements.

**Deleted:** consideration of

**Deleted:**

<sup>1</sup> The July 2004 estimates for voting age population were provided by the U.S. Census Bureau. Because these numbers include non-citizens, the Contractor reduced the numbers by the same percentage the U.S. Census Bureau estimated were non-citizens in 2000. Estimates of voting age population include persons who are not registered to vote.

<sup>2</sup> The Current Population Survey is based on reports from self-described registered voters who also describe themselves as U.S. citizens.

However, EAC has concerns regarding the data, analysis, and statistical methodology the Contractor used to analyze voter identification requirements to determine if these laws have an impact on turnout rates. The Contractor used a single election's statistics to conduct this analysis. The two sets of data came from the Census Bureau and included persons who were not eligible to and did not vote. The first analysis using averaged county-level turnout data from the U.S. Census showed no statistically significant correlations. So, a second analysis using a data set based upon the Current Population Survey (which was self-reported and showed a significantly higher turnout rate than other conventional data) was conducted that produced only some evidence of correlation between voter identification requirements and turnout. Furthermore, the initial categorization of voter identification requirements included classifications that actually require no identification at all, such as "state your name." The research methodology and the statistical analysis used by the Contractor were questioned by independent working and peer review groups comprised of social scientists and statisticians. The Contractor and the EAC agree that the report raises more questions than provides answers.<sup>3</sup> Thus, EAC will not adopt the Contractor's study and will not issue an EAC report based upon this study. EAC, however, is releasing the data and analysis conducted by Contractor.

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Deleted: and the potential variation in

Deleted: based on the type of voter identification requirements

Deleted: on that point

Deleted:

Deleted:

Deleted: EAC is not adopting the report submitted by the Contractor and, therefore, is not releasing the

Deleted:

EAC will engage in a longer-term, more systematic review of voter identification requirements. Additional study on the topic will include more than one Federal election cycle, additional environmental and political factors that effect voter participation, and the numerous changes in state laws and regulations related to voter identification requirements that have occurred since 2004.

EAC will undertake the following activities:

- Conduct an ongoing state-by-state review, reporting and tracking of voter identification requirements. This will include tracking states' requirements which require a voter to state his or her name, to sign his or her name, to match his or her signature to a signature on file, to provide photo or non-photo identification or to swear an affidavit affirming his or her identity.
- Establish a baseline of information that will include factors that may affect or influence Citizen Voting Age Population (CVAP) voter participation, including various voter identification requirements, the competitiveness of a race and certain environmental or political factors. EAC will use some of the information collected by Eagleton as well as additional data from the states to develop this baseline.
- Convene, by mid-2007, a working group of advocates, academics, research methodologists and election officials to discuss EAC's next study of voter identification. Topics to be discussed include methodology, specific issues to be

<sup>3</sup> See EAC Public Testimony, February 8, 2007, page 109.

covered in the study and timelines for completing an EAC study on voter identification.

- Study how voter identification provisions that have been in place for two or more Federal elections have impacted voter turnout, voter registration figures, and fraud, study the effects of voter identification provisions, or the lack thereof, on early, absentee and vote-by-mail voting. Included in this study will be an examination of the relationship between voter turnout and other factors such as race and gender.
- Publish a series of best practice case studies which detail a particular state's or jurisdiction's experiences with educating poll workers and voters about various voter identification requirements. Included in the case studies will be detail on the policies and practices used to educate and inform poll workers and voters.

DRAFT

# **EAC Statement on Future Study of Voter Identification Requirements**

## **Background**

The Help America Vote Act of 2002 (HAVA) authorizes the United States Election Assistance Commission (EAC) to conduct periodic studies of election administration issues. In May 2005, EAC contracted with Rutgers, the State University of New Jersey through its Eagleton Institute of Politics ("Contractor") to perform a review and legal analysis of state legislation, administrative procedures and court cases, and to perform a literature review on other research and data available on the topic of voter identification requirements. Further, the Contractor was asked to analyze the problems and challenges of voter identification, to hypothesize alternative approaches and to recommend various policies that could be applied to these approaches.

The Contractor performed a statistical analysis of the relationship of various requirements for voter identification to voter turnout in the 2004 election. The contractor compared states with similar voter identification requirements and drew conclusions based on comparing turnout rates among states for one election—November 2004. For example, the turnout rate in 2004 in states with a photo identification requirement was compared to the turnout rate in 2004 in states with a requirement that voters sign their name in order to receive a ballot. Contractor used two sets of data to estimate turnout rates: 1) voting age population estimates<sup>1</sup> and 2) individual-level survey data from the November 2004 Current Population Survey conducted by the U.S. Census Bureau.<sup>2</sup>

The Contractor presented testimony summarizing its findings from this statistical and data analysis at the February 8, 2007 public meeting of the U.S. Election Assistance Commission. The Contractor's testimony, its summary of voter identification requirements by State, its summary of court decisions and literature on voter identification and related issues, an annotated bibliography on voter identification issues and its summary of state statutes and regulations affecting voter identification are attached to this report and can also be found on EAC's website, [www.eac.gov](http://www.eac.gov).

## **EAC Recommendations for further study and next steps**

EAC finds the Contractor's summary of States' voter identification requirements and its summary of state laws, statutes, regulations and litigation surrounding the implementation of voter identification requirements, to be a first step in the Commission's efforts to study the possible impact of voter identification requirements.

---

<sup>1</sup> The July 2004 estimates for voting age population were provided by the U.S. Census Bureau. Because these numbers include non-citizens, the Contractor reduced the numbers by the same percentage the U.S. Census Bureau estimated were non-citizens in 2000. Estimates of voting age population include persons who are not registered to vote.

<sup>2</sup> The Current Population Survey is based on reports from self-described registered voters who also describe themselves as U.S. citizens.

However, EAC has concerns regarding the data, analysis, and statistical methodology the Contractor used to analyze voter identification requirements to determine if these laws have an impact on turnout rates. The Contractor used a single election's statistics to conduct this analysis. The two sets of data came from the Census Bureau and included persons who were not eligible to and did not vote. The first analysis using averaged county-level turnout data from the U.S. Census showed no statistically significant correlations. So, a second analysis using a data set based upon the Current Population Survey (which was self-reported and showed a significantly higher turnout rate than other conventional data) was conducted that produced only some evidence of correlation between voter identification requirements and turnout. Furthermore, the initial categorization of voter identification requirements included classifications that actually require no identification at all, such as "state your name." The research methodology and the statistical analysis used by the Contractor were questioned by independent working and peer review groups comprised of social scientists and statisticians. The Contractor and the EAC agree that the report raises more questions than provides answers.<sup>3</sup> Thus, EAC will not adopt the Contractor's study and will not issue an EAC report based upon this study. EAC, however, is releasing the data and analysis conducted by Contractor.

EAC will engage in a longer-term, more systematic review of voter identification requirements. Additional study on the topic will include more than one Federal election cycle, additional environmental and political factors that effect voter participation, and the numerous changes in state laws and regulations related to voter identification requirements that have occurred since 2004.

EAC will undertake the following activities:

- Conduct an ongoing state-by-state review, reporting and tracking of voter identification requirements. This will include tracking states' requirements which require a voter to state his or her name, to sign his or her name, to match his or her signature to a signature on file, to provide photo or non-photo identification or to swear an affidavit affirming his or her identity.
- Establish a baseline of information that will include factors that may affect or influence Citizen Voting Age Population (CVAP) voter participation, including various voter identification requirements, the competitiveness of a race and certain environmental or political factors. EAC will use some of the information collected by Eagleton as well as additional data from the states to develop this baseline.
- Convene, by mid-2007, a working group of advocates, academics, research methodologists and election officials to discuss EAC's next study of voter identification. Topics to be discussed include methodology, specific issues to be

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<sup>3</sup> See EAC Public Testimony, February 8, 2007, page 109.

covered in the study and timelines for completing an EAC study on voter identification.

- Study how voter identification provisions that have been in place for two or more Federal elections have impacted voter turnout, voter registration figures, and fraud, study the effects of voter identification provisions, or the lack thereof, on early, absentee and vote-by-mail voting. Included in this study will be an examination of the relationship between voter turnout and other factors such as race and gender.
- Publish a series of best practice case studies which detail a particular state's or jurisdiction's experiences with educating poll workers and voters about various voter identification requirements. Included in the case studies will be detail on the policies and practices used to educate and inform poll workers and voters.

DRAFT

Thomas R. Wilkey/EAC/GOV  
03/21/2007 01:17 PM

To Donetta L. Davidson/EAC/GOV@EAC, Gracia  
Hillman/EAC/GOV@EAC, Caroline C.  
Hunter/EAC/GOV@EAC, Rosemary E.  
cc  
bcc  
Subject FYI CalTech Study

Thomas R. Wilkey  
Executive Director  
US Election Assistance Commission  
1225 New York Ave, NW - Suite 1100  
Washington, DC 20005  
(202) 566-3109 phone  
TWilkey@eac.gov

— Forwarded by Thomas R. Wilkey/EAC/GOV on 03/21/2007 01:15 PM —



"Mike Alvarez"

03/21/2007 01:09 PM

To twilkey@eac.gov  
cc  
Subject

Hi --

I wanted to let you know that the VTP issued a report this  
morning on voter identification and registration:  
<http://vote.caltech.edu/events/2006/VoterID/rpt.pdf>.

As many of our recommendations involve the EAC, I thought  
we'd pass this along asap.

Hope this is helpful, and we certainly continue to enjoy  
working with the EAC!

Mike

--

\*\*\*\*\*  
R. Michael Alvarez (O)

Professor of Political Science (F)

Caltech/MIT Voting Technology Project  
California Institute of Technology  
Pasadena, CA 91125


\*\*\*\*\*

Contributor to Election Updates,  
<http://electionupdates.caltech.edu/blog.html>

\*\*\*\*\*

027189

Jeannie Layson/EAC/GOV  
03/23/2007 11:11 AM

To Donetta L. Davidson/EAC/GOV@EAC  
cc  
bcc  
Subject Re: Voter ID roll out strategy 

Chris Nelson talked about one size doesn't fit all, problems with audit proposal. SOS Bowen said not enough money in the bill.

-----  
Sent from my BlackBerry Wireless Handheld

----- Original Message -----

**From:** Donetta L. Davidson  
**Sent:** 03/23/2007 10:08 AM EDT  
**To:** Jeannie Layson  
**Subject:** Re: Voter ID roll out strategy

Please keep me up dated

-----  
Sent from my BlackBerry Wireless Handheld

----- Original Message -----

**From:** Jeannie Layson  
**Sent:** 03/23/2007 10:06 AM EDT  
**To:** Donetta Davidson  
**Subject:** Re: Voter ID roll out strategy

Just got underway. So far, it's all "we must have paper to protect our deomcracy."

-----  
Sent from my BlackBerry Wireless Handheld

----- Original Message -----

**From:** Donetta L. Davidson  
**Sent:** 03/23/2007 10:05 AM EDT  
**To:** Jeannie Layson  
**Subject:** Re: Voter ID roll out strategy

How is that going

-----  
Sent from my BlackBerry Wireless Handheld

027190

----- Original Message -----

**From:** Jeannie Layson  
**Sent:** 03/23/2007 10:04 AM EDT  
**To:** Donetta Davidson  
**Subject:** Re: Voter ID roll out strategy

No problem. I am at the Holt hearing.

-----  
Sent from my BlackBerry Wireless Handheld

----- Original Message -----

**From:** Donetta L. Davidson  
**Sent:** 03/23/2007 10:02 AM EDT  
**To:** Jeannie Layson  
**Subject:** Re: Voter ID roll out strategy

Jeannie. I looked over your email on the bb so my review wasn't that complet, but it looked OK to me. Sorry I am out at NIST if you want to get ahold of me

-----  
Sent from my BlackBerry Wireless Handheld

----- Original Message -----

**From:** Jeannie Layson  
**Sent:** 03/22/2007 05:03 PM EDT  
**To:** Donetta Davidson; Rosemary Rodriguez; Caroline Hunter; Gracia Hillman  
**Cc:** Thomas Wilkey; Karen Lynn-Dyson; Juliet Hodgkins; Elieen Kuala; Sheila Banks; stephanie.wolson@gmail.com; Bryan Whitener; Bert Benavides  
**Subject:** Voter ID roll out strategy

Commissioners,

Attached is a memo outlining my suggested strategy for releasing the results of your tally vote. It includes an overall message and Q&A. Please let me know if you have any questions about this information, and I look forward to your input. Thank you.

Jeannie Layson  
U.S. Election Assistance Commission  
1225 New York Ave., NW  
Suite 1100  
Washington, DC 20005  
Phone: 202-566-3100  
[www.eac.gov](http://www.eac.gov)

027191

Jeannie Layson/EAC/GOV  
03/27/2007 02:02 PM

To ddavidson@eac.gov, [REDACTED],  
Caroline C. Hunter/EAC/GOV@EAC, ghillman@eac.gov  
cc twilkey@eac.gov, klynndyson@eac.gov,  
jthompson@eac.gov, bwhitener@eac.gov, Elieen L.  
Kuala/EAC/GOV@EAC, [REDACTED],  
bcc

Subject FOR YOUR APPROVAL: Voter ID PR and Roll Out Strategy

Commissioners,

I have incorporated your edits, so please take a look at the latest drafts of both documents and let me know if you have further changes. I recommend making this public on Thursday. If possible, please let me know by the end of the day on Wed. if you have additional edits. Press release edits were made in the first two paragraphs, including backing off calling this a "multi-year study," and a more direct description of the action you took -- you declined to adopt the report. The only edit in the memo is new language in the Q&A that points out that the \$500K included work for both prov. voting and voter ID.

Thank you, and let me know if you have any questions.

Jeannie Layson  
U.S. Election Assistance Commission  
1225 New York Ave., NW  
Suite 1100  
Washington, DC 20005  
Phone: 202-566-3100



[www.eac.gov](http://www.eac.gov) VoterIDRollOutProposal REV.doc VoterIDTallyVotePRDRAFT3-27.doc

027192



**March 27, 2007**

**MEMORANDUM**

**To:** Commissioners Davidson, Rodriguez, Hunter and Hillman  
**Fr:** Jeannie Layson  
**Cc:** Tom Wilkey, Julie Hodgkins, Karen Lynn-Dyson, Bryan Whitener  
**RE:** Communications Strategy for Release of Voter ID Tally Vote Results

In anticipation of the release of the results of the tally vote and all of the information provided by the contractor, I suggest taking the following steps to effectively communicate your decision. Taking this approach will help us control how the information is distributed, how it is framed, and how to focus the discussion on the positive outcome of your decision.

The bottom line is that we want to try our best to make this a story about EAC's decision to conduct a thorough and in-depth look into the subject of voter ID, and we have decided to release the preliminary research. We do not want this to evolve into a storyline about squabbling between EAC and Eagleton.

I have provided a suggested overall message that reflects the action taken, as well as questions we should be prepared to answer.

Please let me know if you have any questions about my proposal, and I look forward to your input.

## **PRELIMINARY ACTIVITIES**

Prior to the completion of the tally vote and the subsequent release of the results and the contractor's materials, I suggest taking the following steps:

1. Discuss EAC's decision with the contractors in advance of distributing the press release and discussions with reporters so that they have an opportunity to respond and also so they will be well informed and prepared to discuss the facts with reporters or others who will most likely contact them.
2. Prior to release of EAC's decision, reach out to key Hill staffers who have been following this issue, including those members who have requested this data in the past. This should include staffers for the House Appropriations Committee Subcommittee on Financial Services and General Government since the Committee requested this information a few weeks ago. It should be made clear to committee staffers that the tally vote is the culmination of a directive made by the EAC chair in Feb. that the agency move forward to complete this project. These staffers should also be included on our list of key stakeholders.
3. Executive director should determine whether there are other key stakeholders that should be made aware of this decision from EAC personally, not from a press release. Possible candidates include members of Congress, NASS, individual secretaries of state, DOJ, and NASED.

## **PUBLIC ROLL-OUT**

Once the above preliminary steps have been completed, EAC Communications will:

1. Post the press release and the related data on the website, with a link from the home page.
2. Prior to release of the tally vote decision and related data, call Richard Whitt of USA Today, Will Lester of AP, Chris Drew of the NYT, and Zach Goldfarb of the WaPo and let them know we are about to release the information. Offer interviews with the chair or other commissioners.
3. Send the press release (with a link to the research) to all recipients in the media database. This includes national dailies, as well as wire services such as the Associated Press.
4. Send the press release (with a link to the research) to all recipients in the stakeholder database. The database consists of election officials, advocates, and other interested parties, including representatives from organizations who have been critical of EAC, including VoteTrust USA and the People for the American Way.

## **OVERALL MESSAGE**

Voter identification at the polling place is an important issue that affects voters in jurisdictions throughout the country. Understanding that this issue deserves a more in-depth approach, EAC has decided to move forward with a thorough, multi-year research project that will examine everything from turnout to voter education.

The findings of the preliminary research, which focused exclusively on the 2004 general elections, was insufficient to provide meaningful conclusions and raises more questions than provides answers. Future research will be expanded to include more than one election cycle and will examine environmental and political factors including, the many changes in state laws and regulations that have occurred since the 2004.

## **Q&A**

We should be prepared to answer the following questions:

### **Q: Why not release the draft fraud report, too?**

A: EAC issued a final Voting Fraud and Voter Intimidation Report in December 2006, which included recommendations adopted by the Commission to conduct a comprehensive assessment of all claims, charges and prosecutions of voting crimes.

In the case of the voter ID report, the Commission chose not to adopt a final report because it was determined that there was insufficient data to provide meaningful conclusions.

### **Q: You cited concerns with the contractor's methodology and analysis. Didn't your contract with Eagleton include specific language regarding these issues?**

A: Yes, but in retrospect, perhaps we could have done a better job articulating how we wanted this research to be conducted.

### **Q: During the course of the project, did you see draft reports? If so, why didn't these concerns get addressed at that time?**

A: We did receive progress reports, and when we identified areas of concern, we discussed it with the contractor. It was because of these concerns that EAC decided to revisit the methodologies used so that we could provide a more in-depth look at the subject matter.

### **Q: During the course of the contract, did you ever express these concerns with Eagleton?**

A: Yes, and as a result of these conversations, EAC decided to revisit the methodologies used so that we could provide a more in-depth look at the subject matter.

### **Q: You spent more than \$500,000 for a report the Commission doesn't think should be adopted – so basically you're flushing a lot of money down the drain. Is this a wise use of taxpayer dollars?**

A: There is value in what Eagleton provided, and this included work they did for us regarding provisional voting. As a result of the research on provisional voting, EAC

issued a set of best practices last fall. The voter ID data will help provide a baseline for how to move forward. And even though their research raised many questions, contemplating the answers to those questions has informed us on how to move forward.

**Q: If you were not satisfied with the final product, why did you pay for it?**

A: We adhered to the terms of the contract.

**Q: EAC received this data in June of last year. What has taken so long to bring it to a conclusion?**

A: This is an important issue, one that deserves careful deliberation and a thorough approach. Yes, we like to get things done quickly, but it is more important to take the time to get things right.

## **TRANSITION PHRASES**

To stay on message and avoid being dragged into discussions about anything other than the action taken, employ the following phrases and transition back to the overall message.

### ***Overall Message***

Voter identification at the polling place is an important issue that affects voters in jurisdictions throughout the country. Understanding that this issue deserves a more in-depth approach, EAC has decided to move forward with a thorough, multi-year research project that will examine everything from turnout to voter education.

The findings of the preliminary research, which focused exclusively on the 2004 general elections, were insufficient to provide meaningful conclusions and raises more questions than provides answers. Future research will be expanded to include more than one election cycle and will examine environmental and political factors, including the many changes in state laws and regulations that have occurred since 2004.

### ***Bridge/Transition Phrases***

- What's really important here...
- The bottom line is...
- The point is...
- We have a responsibility to...
- I'll let others speak to that, but let me tell you what's important to EAC...
- Everyone agrees that...



U.S. ELECTION ASSISTANCE COMMISSION  
1225 New York Ave. NW – Suite 1100  
Washington, DC 20005

## **EAC to Launch Comprehensive Study of Voter ID Laws**

For Immediate Release  
DATE, 2007

Contact: Jeannie Layson  
Bryan Whitener  
(202) 566-3100

**WASHINGTON** – The U.S. Election Assistance Commission (EAC) has voted unanimously to launch a comprehensive study focused on voter identification laws. The initial research on voter identification laws are available at [www.eac.gov](http://www.eac.gov), but because this research focused exclusively on the 2004 general elections, included populations that are not eligible to vote, and did not take into account influential factors such as the competitiveness of campaigns, it was insufficient to provide meaningful conclusions and thus the Commission declined to adopt a report based on it.

“New voter identification laws have been enacted recently, and the Commission began working to determine the possible impact of these new laws,” said EAC Chair Donetta Davidson. “After careful consideration of the initial research conducted by our contractor, the Commission decided this important issue deserves a more in-depth research approach and that it should be examined beyond only one election cycle. The bottom line is that the research raises more questions than provides answers.

EAC’s strategy for moving forward is based upon an examination of the initial research and the testimony and discussion about this research project at the Commission’s February 8, 2007, public meeting. For more information about the public meeting agenda, transcript, and testimony go to [http://www.eac.gov/Public\\_Meeting\\_020807.asp](http://www.eac.gov/Public_Meeting_020807.asp).

EAC’s future research on this topic will be expanded to include more than one election cycle and to examine environmental and political factors and the numerous changes in state laws and regulations related to voter identification requirements that have occurred since 2004. EAC’s comprehensive research approach will undertake the following activities:

- Convene a working group of advocates, academics, research methodologists and election officials to discuss EAC’s next study of voter identification. Topics to be discussed include methodology, specific issues to be covered in the study and timelines for completing an EAC study on voter identification.
- Conduct an ongoing state-by-state review, reporting and tracking of voter identification requirements. This will include tracking states’ requirements that require a voter to state his or her name, to sign his or her name, to match his or her signature to a signature on file, to provide photo or non-photo identification or to swear an affidavit affirming his or her identity.
- Establish a baseline of information that will include factors that may affect or influence Citizen Voting Age Population (CVAP) voter participation, including various voter identification requirements, the competitiveness of a race and certain environmental or political factors. EAC will use some of the information already collected as well as additional data from the states to develop this baseline.

- Study how voter identification provisions that have been in place for two or more Federal elections have impacted voter turnout, voter registration figures and fraud. Included in this study will be an examination of the relationship between voter turnout and other factors such as race and gender. Study the effects of voter identification provisions, or the lack thereof, on early, absentee and vote-by-mail voting.
- Publish a series of best practice case studies which detail a particular state's or jurisdiction's experiences with educating poll workers and voters about various voter identification requirements. Included in the case studies will be detail on the policies and practices used to educate and inform poll workers and voters.

EAC is an independent bipartisan commission created by the Help America Vote Act of 2002 (HAVA). It is charged with administering payments to states and developing guidance to meet HAVA requirements, implementing election administration improvements, adopting voluntary voting system guidelines, accrediting voting system test laboratories and certifying voting equipment and serving as a national clearinghouse and resource of information regarding election administration. The four EAC commissioners are Donetta Davidson, chair; Rosemary Rodriguez, Caroline Hunter and Gracia Hillman.

# # #

Thomas R. Wilkey/EAC/GOV  
03/29/2007 11:52 AM

To Donetta L. Davidson/EAC/GOV@EAC, Gracia  
Hillman/EAC/GOV@EAC, Caroline C.  
Hunter/EAC/GOV@EAC, Rosemary E.  
cc Sheila A. Banks/EAC/GOV@EAC, Elieen L.  
Kuala/EAC/GOV@EAC, Juliet E.  
Hodgkins/EAC/GOV@EAC, Jeannie  
bcc

Subject Withdrawl of Tally Vote Memo of March 28, 2007, Draft Study  
Of Voter Identification Requirements

Commissioners;  
The tally vote memo issued on March 28, 2007 concerning the Draft Study of Identification Requirements  
is hereby withdrawn.  
A new memo will be re-issued to you shortly.  
Tom Wilkey

Thomas R. Wilkey  
Executive Director  
US Election Assistance Commission  
1225 New York Ave, NW - Suite 1100  
Washington, DC 20005  
(202) 566-3109 phone  
TWilkey@eac.gov

027200

Jeannie Layson/EAC/GOV  
03/29/2007 02:02 PM

To ddavidson@eac.gov  
cc  
bcc  
Subject Voter ID roll out

History

This message has been forwarded

If we put out the press release tomorrow, how do you want to handle press interviews? Will you be available tomorrow? Would you rather wait and do it Monday?

Jeannie Layson  
U.S. Election Assistance Commission  
1225 New York Ave., NW  
Suite 1100  
Washington, DC 20005  
Phone: 202-566-3100  
[www.eac.gov](http://www.eac.gov)

027201

Jeannie Layson/EAC/GOV  
03/30/2007 02:04 PM

To : ddavidson@eac.gov, Rosemary E.  
Rodriguez/EAC/GOV@EAC, Caroline C.  
Hunter/EAC/GOV@EAC, ghillman@eac.gov  
cc : twilkey@eac.gov, klynndyson@eac.gov,  
jthompson@eac.gov  
bcc  
Subject: Voter ID update

Commissioners,

The press release, the statement, and the draft report has been posted on our site. The press release is being distributed, and is on the way to all of you and the entire EAC staff. The following activities have occurred:

1. Press release was sent in advance to Eagleton.
2. I called Wendy Weiser of the Brennan Center and sent her the info.
3. I called and sent the info to Ray M. and Paul D.
4. I sent the info to Tom Hicks and Adam A.
5. Tom called Dan Tokaji, Dan Oak, and Rep. Hinchey's office.
6. Karen gave the three EAC experts a heads up.
7. Comm. Rodriguez was interviewed by NPR (the only outlet that showed any interest), as was Eagleton. Eagleton told NPR they are glad we are expanding the scope. Interview will run on affiliates today at approximately 5:44 pm EST.
8. I offered interviews to USA Today, WaPo, NYT, and AP but none were interested.
9. I have kept Eagleton apprised of our activities.

I'll continue to keep you apprised as the day goes on, and please let me know if there's anyone else you'd like me to contact.

Jeannie Layson  
U.S. Election Assistance Commission  
1225 New York Ave., NW  
Suite 1100  
Washington, DC 20005  
Phone: 202-566-3100  
www.eac.gov

027202